

SENTENCING  
SPOTLIGHT ON...

# animal welfare offences



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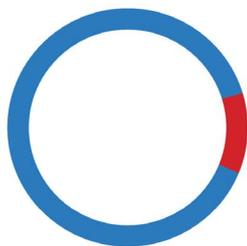
# Sentencing Spotlight on... animal welfare offences

This *Sentencing Spotlight* examines sentencing outcomes for animal welfare offences finalised in Queensland courts between 2005-06 and 2017-18.

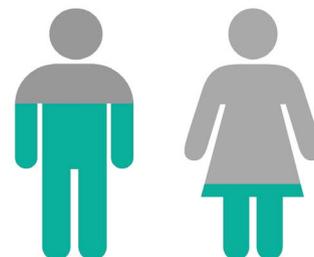
## Summary of offences 2005-06 to 2017-18



**1,020 offenders**  
**2,416 charges**



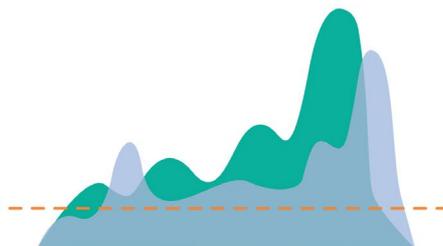
**853**  
animal welfare offence  
was most serious  
offence (MSO)



**66.7% male**  
**33.3% female**



**16.2%**  
Aboriginal and/or  
Torres Strait Islander



Average age  
**36.4 years**



**93.3%**  
pleaded  
guilty



**9.2%**  
offenders  
given custodial penalty



**Fine**  
Most common  
penalty imposed



Fines for individuals  
ranged from  
**\$50 to \$25,000**

Source: Department of Justice and Attorney-General's Queensland Wide Inter-linked Courts (QWIC) database, as maintained by the Queensland Government Statistician's Office (QGSO).

# Animal welfare offences

There are a number of offences in Queensland which deal with animal welfare.

The offence of **animal cruelty** is set out under s 18 of the *Animal Care and Protection Act 2001* (Qld) which provides that “a person must not be cruel to an animal”. This offence covers a range of unjustifiable and unreasonable behaviour such as beating, tormenting, transporting inappropriately, or killing an animal inhumanely. This offence carries a maximum penalty of three years imprisonment, or a fine of up to \$266,900. Amendments were introduced on 23 September 2013 to increase the maximum penalty, prior to these amendments the maximum penalty was two years imprisonment, or a fine of up to \$133,450.

There is also an offence of **serious animal cruelty** under s 242 of the *Criminal Code* (Qld) which provides that “a person who, with the intention of inflicting severe pain or suffering, unlawfully kills, or causes serious injury or prolonged suffering to, an animal commits a crime”. The maximum penalty for serious animal cruelty is 7 years imprisonment. This offence was introduced in 2014 and applies to offences committed from 15 August 2014.<sup>1</sup>

A person in charge of an animal must not **breach the duty of care** owed to the animal, which means the person must appropriately provide for the animal’s needs, such as taking reasonable steps to provide food, water, and appropriate living conditions. Breach of duty of care is an offence under s 17 of the *Animal Care and Protection Act 2001* (Qld) which carries a maximum penalty of 1 year imprisonment, or a fine of \$40,035.

The *Animal Care and Protection Act 2001* (Qld) also provides for a range of other offences involving animal welfare, including unreasonable abandonment of an animal, prohibited events, regulated surgical procedures (such as docking a dog’s tail), use of baits or harmful substances, and bleeding or coursing, amongst others. A full list of the offences considered in this *Sentencing Spotlight* is provided in Table 1. Throughout this *Sentencing Spotlight*, the phrase **offences against animals** will be used as a collective term for all of the offences described in this table.

The offence of injuring animals, which is set out under s 468 of the *Criminal Code* (Qld), is classified as a property offence and is outside the scope of this *Sentencing Spotlight*. The offence only applies to animals that are capable of being stolen, and is classified under the national standard offence classification as ‘property damage other than by fire, explosion or graffiti’.<sup>2</sup>

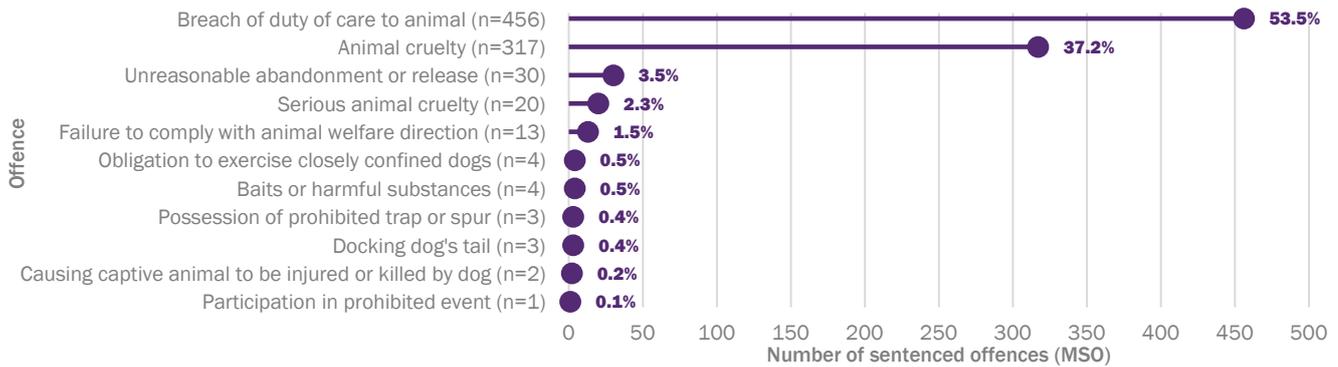
**Table 1: Offences against animals in Queensland**

Legislation	Section	Offence	Maximum jail term	Maximum fine
<i>Criminal Code</i>	s 242	Serious animal cruelty	7 years	Not specified*
<i>Animal Care and Protection Act 2001</i>	s 18	Animal cruelty	3 years	\$266,900.00
<i>Animal Care and Protection Act 2001</i>	s 17	Breach of duty of care	1 year	\$40,035.00
<i>Animal Care and Protection Act 2001</i>	s 19	Unreasonable abandonment or release	1 year	\$40,035.00
<i>Animal Care and Protection Act 2001</i>	s 21	Participation in prohibited event	1 year	\$40,035.00
<i>Animal Care and Protection Act 2001</i>	s 22	Presence at prohibited event	1 year	\$20,017.00
<i>Animal Care and Protection Act 2001</i>	s 23	Cropping dog’s ear	n/a	\$13,345.00
<i>Animal Care and Protection Act 2001</i>	s 24	Docking dog’s tail	n/a	\$13,345.00
<i>Animal Care and Protection Act 2001</i>	s 25	Debarking operations	1 year	\$40,035.00
<i>Animal Care and Protection Act 2001</i>	s 26	Removing cat’s claw	1 year	\$40,035.00
<i>Animal Care and Protection Act 2001</i>	s 27	Docking tail of cattle or horse	1 year	\$40,035.00
<i>Animal Care and Protection Act 2001</i>	s 30	Causing captive animal to be injured or killed by dog	1 year	\$40,035.00
<i>Animal Care and Protection Act 2001</i>	s 31	Releasing animal for injury or killing by dog	1 year	\$40,035.00
<i>Animal Care and Protection Act 2001</i>	s 32	Using an animal for bleeding or coursing	1 year	\$40,035.00
<i>Animal Care and Protection Act 2001</i>	s 33	Obligation to exercise closely confined dogs	n/a	\$2,669.00
<i>Animal Care and Protection Act 2001</i>	s 34	Possession of prohibited trap or spur	n/a	\$13,345.00
<i>Animal Care and Protection Act 2001</i>	s 35	Use of prohibited trap or spur	1 year	\$40,035.00
<i>Animal Care and Protection Act 2001</i>	s 36	Baits or harmful substances	1 year	\$40,035.00
<i>Animal Care and Protection Act 2001</i>	s 37	Allowing animal to injure or kill another animal	1 year	\$40,035.00
<i>Animal Care and Protection Act 2001</i>	s 161	Failure to comply with animal welfare direction	1 year	\$13,345.00

Note: fine amounts are calculated based on a penalty unit value of \$133.45 (current from 1 July 2019). The value of a penalty unit changes each financial year.

\* Under ss 45 and 46 of the *Penalties and Sentences Act 1992* (Qld), if a maximum fine is not specified and the case is heard in the Magistrates Court the maximum fine is \$22,019; if heard in the District Court the maximum fine is \$557,153; and if heard in the Supreme Court there is no limit on the maximum fine.

**Figure 1: Number of sentenced cases involving offences against animals (MSO), 2005-06 to 2017-18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

## Number of offenders

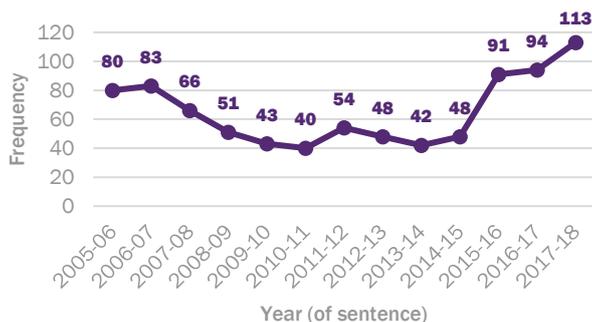
A total of 1,115 cases involving 1,020 offenders were sentenced for offences against animals between 2005-06 and 2017-18.<sup>3</sup> These cases involved 2,416 charges of various offences against animals. In 853 cases (76.5%), the offence against animals was the most serious offence (MSO).<sup>4</sup> In the 262 cases in which an offence against animals was not the MSO, the MSO most commonly involved assault (21.8%, n=57), unlawful entry (16.0%, n=42), or property damage (10.3%, n=27).

This *Sentencing Spotlight* focuses primarily on the 853 cases in which an offence against animals was the MSO.

Figure 1 shows the number of finalised offences against animals that were sentenced as the MSO during the 13 year data period. The most prevalent offence was breach of duty of care to an animal, accounting for over half of all offences against animals (MSO) (53.5%, n=456). Over a third of sentenced cases (MSO) were for the offence of animal cruelty (37.2%, n=317). This shows that offences against animals were more often characterised by offenders neglecting to provide adequate care for animals, as opposed to deliberate acts of cruelty.

Figure 2 shows the number of finalised cases sentenced for offences against animals (MSO) by financial year. There was a considerable increase from 48 cases in 2014-15 to 91 cases in 2015-16. Since then, the number of cases has continued to rise reaching 113 cases in 2017-18.

**Figure 2: Number of cases sentenced for offences against animals (MSO), 2005-06 to 2017-18**

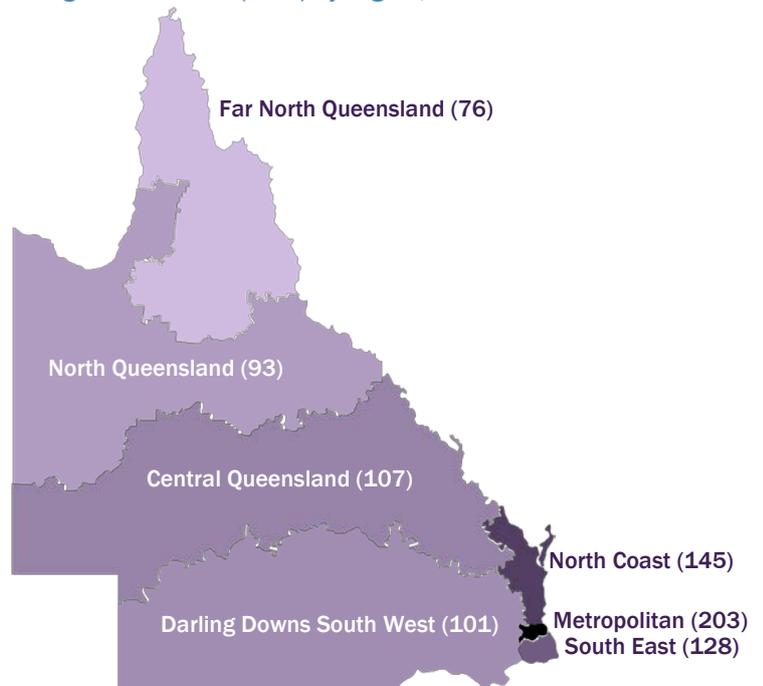


Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

## Regions

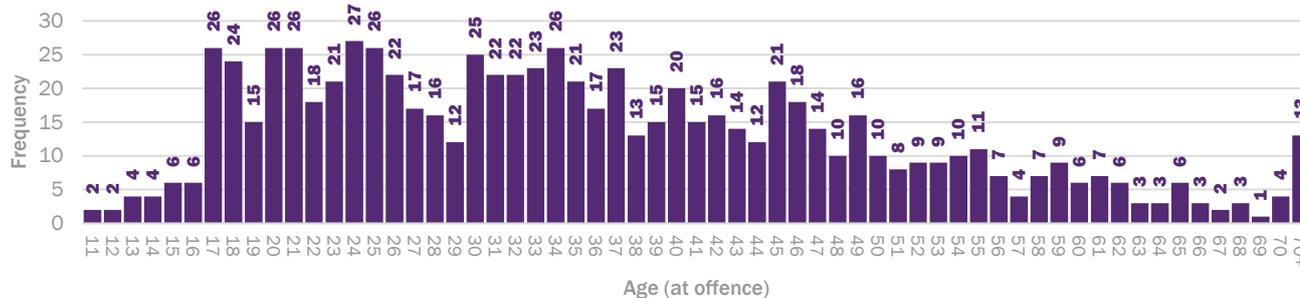
Figure 3 illustrates the regions within Queensland in which cases involving offences against animals (MSO) were sentenced. The region with the most cases sentenced was the Metropolitan region with 203 cases.

**Figure 3: Number of cases sentenced for offences against animals (MSO) by region, 2005-06 to 2017-18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Figure 4: Number of offenders sentenced for offences against animals (MSO) by age at offence, 2005-06 to 2017-18



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.  
 Note: There were 48 offenders with an unknown date of birth. These offenders were excluded from this figure.

## Offender characteristics

This section compares the age, gender and Aboriginal and Torres Strait Islander status of offenders sentenced for offences against animals (MSO) over the period from 2005-06 to 2017-18.

One of the offenders sentenced for an offence against animals (MSO) was a corporation which does not have the same characteristics as individual offenders and will not be discussed in this section.

### Age

At the time of the offence, the average age of all offenders sentenced for offences against animals (MSO) was 36.4 years (with a median of 34.4 years) with ages ranging between 11 and 81 years.<sup>5</sup> Figure 4 shows age at the time of offence.

### Young offenders

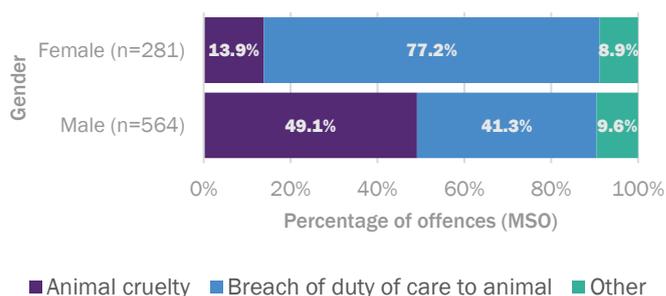
If, at the time of the offence, an offender was aged 10 to 17 years, they may be dealt with as a child under the *Youth Justice Act 1992*. However, prior to 12 February 2018, a 17-year-old who committed an offence was regarded by the criminal system as an adult under Queensland legislation. There were 24 offenders who were sentenced as a child for an offence against animals (MSO). Only one female offender was sentenced as a child. Half of offenders that were sentenced as a child were Aboriginal or Torres Strait Islander (n=12).

### Gender

Over the 13 year data period, two thirds of offenders sentenced for offences against animals (MSO) in Queensland were male (66.7%, n=564).<sup>6</sup>

There was a significant difference in the type of offence committed by male offenders compared to female offenders.<sup>7</sup> The offence of animal cruelty accounted for almost half of offences committed by male offenders (49.1%), whereas animal cruelty only accounted for 13.9 per cent of offences committed by female offenders. Female offenders were more likely to be sentenced for breaching the duty of care owed to an animal (77.2%) compared to male offenders (41.3%) – see Figure 5.

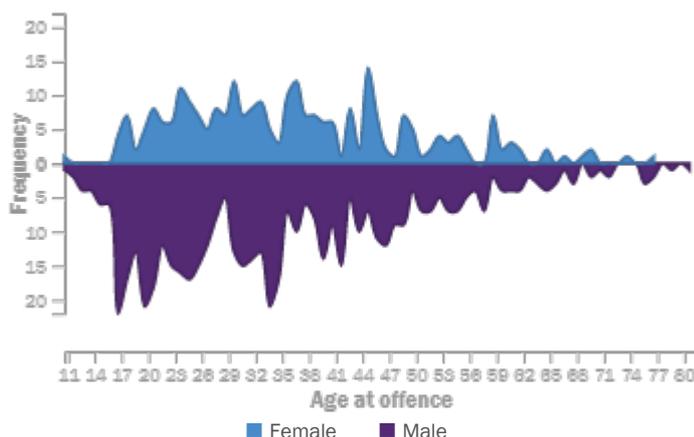
Figure 5: Type of offence against animals (MSO) committed by gender, 2005-06 to 2017-18



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.  
 Note: Seven offenders were excluded as their gender was unknown.

There was no significant difference in the age of male offenders compared to the age of female offenders sentenced for offences against animals (MSO).<sup>8</sup> The average age at time of the offence for females was 37.2 years (median=36.1) and for male offenders was 35.9 years (median=33.8) – see Figure 6.

Figure 6: Offenders sentenced for offences against animals (MSO) by gender and age at offence, 2005-06 to 2017-18

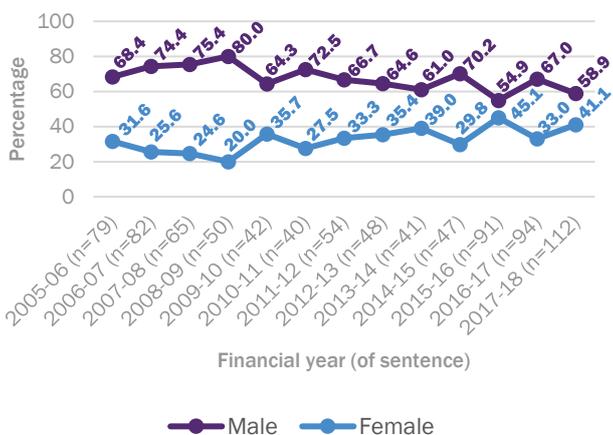


Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.  
 Note: 54 offenders were excluded as their gender or age was unknown.

Figure 7 shows the proportion of male offenders compared to female offenders by financial year. Overall, the proportion of male offenders has been higher, reaching a peak of 80 per cent male offenders in 2008-09. However, since 2015-16, the number of female offenders has been on the increase, bringing the

proportion of male offenders down to 58.9 per cent in 2017-18.

**Figure 7: Proportion of offenders sentenced for offences against animals (MSO) by gender and year of sentence, 2005-06 to 2017-18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.  
Note: Seven offenders were excluded as their gender was unknown.

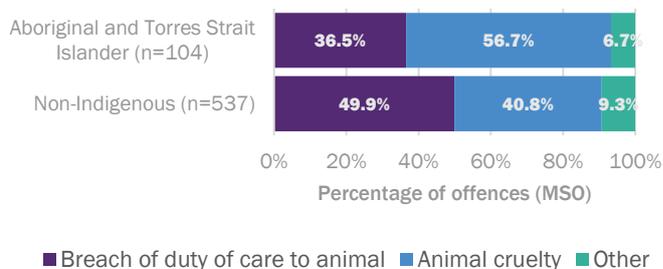
## Aboriginal and Torres Strait Islander people

Although people who identify as Aboriginal or Torres Strait Islander represent approximately 3.8 per cent of Queensland's population aged 10 years and over,<sup>9</sup> they accounted for 16.2 per cent of offenders sentenced for offences against animals (MSO) during the 13 year data period.<sup>10</sup> Overall, there were 104 offenders who identified as being Aboriginal or Torres Strait Islander.

In Queensland, Aboriginal and Torres Strait Islander people are over-represented in a range of offence categories, accounting for 17.6 per cent of offenders across all types of offences from 2005-06 to 2017-18. This is a result of a range of complex current and historical factors that continue to impact on the lives of Aboriginal and Torres Strait Islander people.

Figure 8 shows that animal cruelty was the most common type of offence committed by Aboriginal and Torres Strait Islander offenders, accounting for over half (56.7%) of offences. The most common offence committed by non-Indigenous offenders was to breach the duty of care owed to an animal, with almost half of offenders (49.9%) committing this offence. These differences were statistically significant.<sup>11</sup>

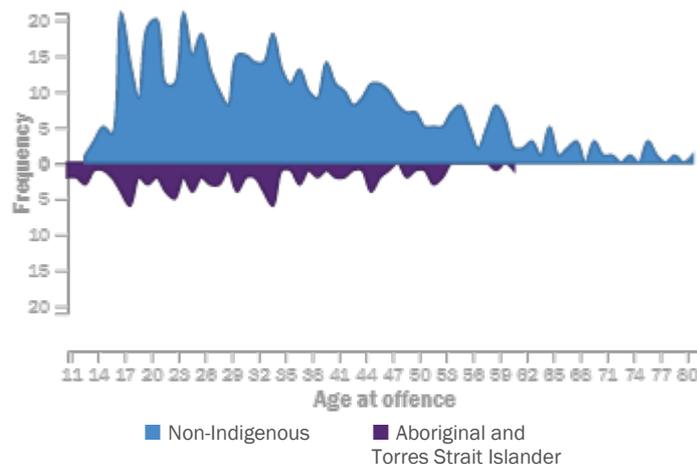
**Figure 8: Type of offence against animals (MSO) committed by Aboriginal and Torres Strait Islander status, 2005-06 to 2017-18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.  
Note: 212 offenders were excluded as their Aboriginal and Torres Strait Islander status was unknown.

The average age of Aboriginal and Torres Strait Islander offenders was younger at the time of offence (30.9 years, median=29.3) compared to non-Indigenous offenders (36.4 years, median=34.1) – see Figure 9.<sup>12</sup>

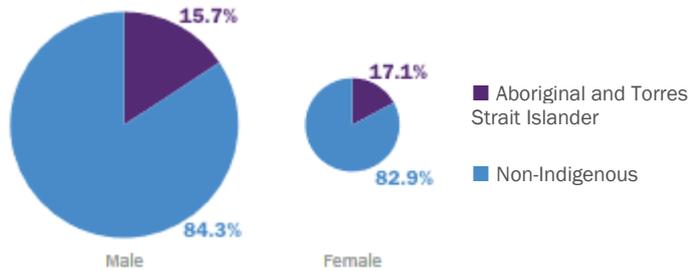
**Figure 9: Offenders sentenced offences against animals (MSO) by Aboriginal and Torres Strait Islander status and age at offence, 2005-06 to 2017-18**



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.  
Note: 223 offenders were excluded as their age or Aboriginal and Torres Strait Islander status was unknown.

There was no significant difference when considering Aboriginal and Torres Strait Islander status by gender.<sup>13</sup> Of the 452 male offenders sentenced for offences against animals (MSO), Aboriginal and Torres Strait Islander offenders accounted for 15.7 per cent (n=71). In comparison, of the 187 female offenders, Aboriginal and Torres Strait Islander female offenders accounted for 17.1 per cent (n=32) – see Figure 10.

**Figure 10: Offenders sentenced for offences against animals (MSO) by Aboriginal and Torres Strait Islander status and gender, 2005-06 to 2017-18**

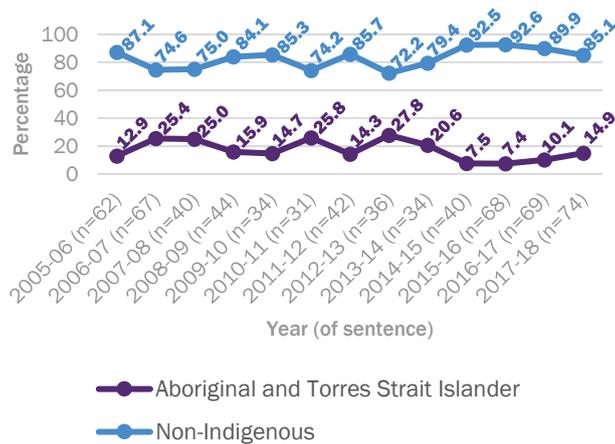


Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: 214 offenders were excluded as their gender or Aboriginal and Torres Strait Islander status was unknown.

As noted previously, Aboriginal and Torres Strait Islander offenders accounted for 16.2 per cent of offenders sentenced for offences against animals (MSO); however, this proportion has fluctuated over the 13 year data period – see Figure 11. In the years since 2014-15, the proportion of Aboriginal and Torres Strait Islander offenders has increased from 7.5 per cent in 2014-15 to 14.9 per cent in 2017-18.

**Figure 11: Proportion of offenders sentenced for offences against animals (MSO) by Aboriginal and Torres Strait Islander status and year of sentence, 2005-06 to 2017-18**



Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: 212 offenders were excluded as their Aboriginal and Torres Strait Islander status was unknown.

## Sentencing court

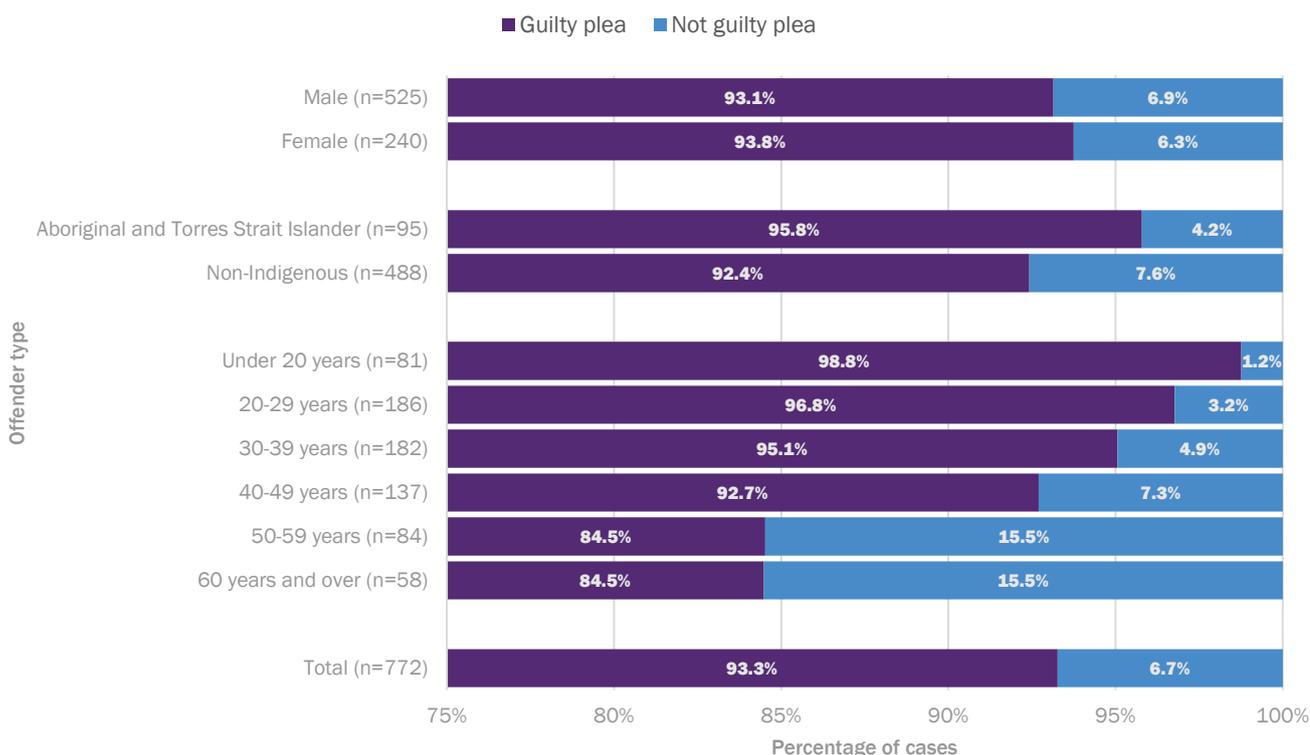
Almost all offenders sentenced for offences against animals (MSO) were sentenced in the Magistrates Courts (98.5%, n=840). The remaining 13 offenders (1.5%) were sentenced in the District Court – these offenders were all sentenced for the offence of serious animal cruelty under s 242 of the *Criminal Code* (Qld).<sup>14</sup>

## Type of plea

Most offenders sentenced for offences against animals (MSO) pleaded guilty (93.3%), either initially or at a subsequent date; only 6.7 per cent pleaded not guilty – see Figure 12. Offenders aged 50 years and over at sentence were the least likely to enter a guilty plea (84.5%), whereas offenders aged under 20 years were the most likely to enter a guilty plea (98.8%).

There was no significant difference in the type of plea by gender or Aboriginal and Torres Strait Islander status.<sup>15</sup>

**Figure 12: Plea type of offenders sentenced for offences against animals (MSO) by gender, Aboriginal and Torres Strait Islander status and age at sentence, 2005-06 to 2017-18**

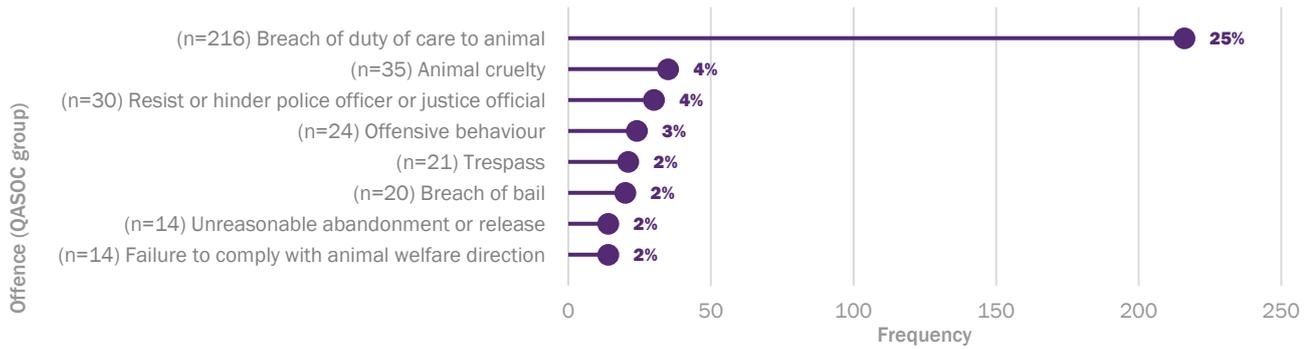


Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: Offenders with unknown characteristics were excluded from each subcategory.

Note: There were 81 offenders (9.5%) who did not enter a formal plea or whose plea was unknown, these were excluded from this analysis.

**Figure 13: Top eight associated offences sentenced with an offence against animals (MSO), 2005-06 to 2017-18**



Source: Queensland Government Statistician's Office, Queensland Treasury Courts Database, extracted November 2018.

## Associated offences

Some offenders sentenced for offences against animals (MSO) were also sentenced for other offences at the same court event. Of the 853 cases, over half only had the one offence against animals sentenced in their court event (56.9%); 19.2 per cent had one additional offence, and 23.9 per cent had more than one.

Figure 13 shows the top eight most common associated offences. The majority of breach of duty offences (87.5%, n=189) were heard alongside other breach of duty offences; and the majority of animal cruelty offences (74.3%, n=26) were heard alongside other animal cruelty offences. The next most common offences: resisting a police officer, offensive behaviour, and trespass were all most often associated with the offence of animal cruelty.

The number of sentenced offences per offender per court event ranged from 1 to 131, with an average of 2.6 sentenced offences per event (median=1.0).

On average, female offenders were sentenced for more offences at a sentencing event compared to male offenders (an average of 3.2 offences per event for females, compared to 2.4 offences per event for males), although this finding was not statistically significant.<sup>16</sup>

Aboriginal and Torres Strait Islander offenders were, on average, sentenced for slightly less offences at a sentencing event, however this difference was not significant (an average of 2.2 offences per event for Aboriginal and Torres Strait Islander offenders, compared to 2.7 offences per event for non-Indigenous offenders).<sup>17</sup>

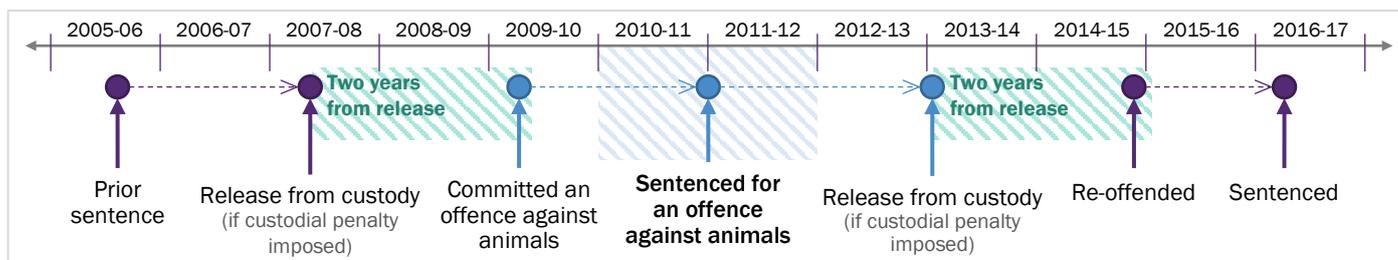
**Table 2: Number of sentenced offences per court event, 2005-06 to 2017-18**

Offender type	N	Single offence (%)	2 to 4 offences (%)	5 to 10 offences (%)	11+ offences (%)	Number of offences			
						Avg	Median	Min	Max
Female	281	52.7	36.3	8.2	2.8	3.2	1.0	1	131
Male	564	58.7	31.7	7.6	2.0	2.4	1.0	1	131
Aboriginal or Torres Strait Islander	104	52.9	39.4	4.8	2.9	2.2	1.0	1	14
Non-Indigenous	537	57.4	33.9	7.3	1.5	2.7	1.0	1	131
<b>Total</b>	<b>853</b>	<b>56.9</b>	<b>33.2</b>	<b>7.7</b>	<b>2.2</b>	<b>2.6</b>	<b>1.0</b>	<b>1</b>	<b>131</b>

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: Offenders with unknown characteristics were excluded from each subcategory.

Figure 14: Methodology for recidivism.

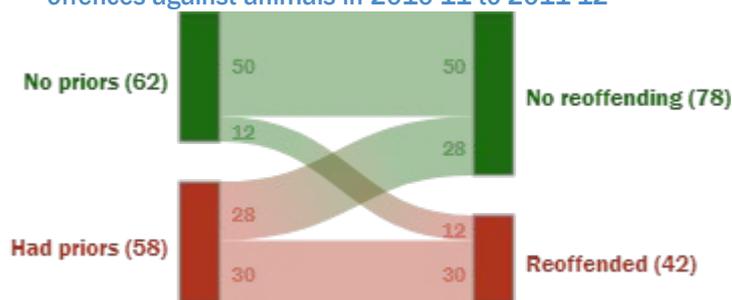


The 'two year period' refers to the time during which an offence must be committed for it to be included in the recidivism analysis. The offender must have committed a new offence within two years of being released from custody for a prior offence.

## Recidivism

Offenders sentenced for offences against animals in 2010-11 to 2011-12 were examined in more detail to determine whether they had committed any other offences before or after being sentenced for an offence against animals.<sup>18</sup> Prior and subsequent offending was operationalised as any sentencing event with an offence date that occurred within two years of an offender's expected release from custody – see Figure 14. Young offenders were excluded from this analysis.

Figure 15: Recidivist offending of persons sentenced for offences against animals in 2010-11 to 2011-12



Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

In 2010-11 to 2011-12, there were 120 cases sentenced for offences against animals. Of these, 58 had previously been sentenced for another offence (48.3%), and 42

reoffended (35.0%). These offenders were collectively involved in 173 prior sentenced events, and 105 subsequent sentenced events.

Figure 15 shows that over a third of offenders (n=50, 41.7%) recorded no prior and no subsequent sentenced offences. A quarter of offenders (n=30, 25.0%) recorded sentenced offences both prior to and following their offence against animals. There were 12 offenders (10.0%) that reoffended, but had no prior sentenced offences; and 28 offenders (23.3%) that had prior sentenced offences and did not reoffend.

Table 3 shows that the average number of prior court events for male offenders is 1.9 – this is significantly greater than females with an average of 0.4 prior court events.<sup>19</sup> Male offenders are also significantly more likely to reoffend, with an average of 1.2 subsequent court events for males, compared to 0.2 for females.<sup>20</sup>

Aboriginal and Torres Strait Islander offenders have a higher average number of prior court events (average=2.5) compared to non-Indigenous offenders (average=1.6) – however, this difference is not statistically significant.<sup>21</sup> Aboriginal and Torres Strait Islander offenders are significantly more likely to reoffend (average=2.5 subsequent court events) compared to non-Indigenous offenders (average=0.7 subsequent court events).<sup>22</sup>

Table 3: Prior and subsequent court events for offenders sentenced for offences against animals, 2010-11 to 2011-12

Offender type	N	No court events (%)	1 to 4 court events (%)	5+ court events (%)	Number of court events			
					Average	Median	Min	Max
<b>Prior offending</b>	<b>120</b>	<b>51.7</b>	<b>38.3</b>	<b>10.0</b>	<b>1.4</b>	<b>0.0</b>	<b>0</b>	<b>12</b>
Female	36	66.7	33.3	0.0	0.4	0.0	0	3
Male	84	45.2	40.5	14.3	1.9	1.0	0	12
Aboriginal or Torres Strait Islander	19	31.6	47.4	21.1	2.5	2.0	0	9
Non-Indigenous	78	44.9	44.9	10.3	1.6	1.0	0	12
<b>Subsequent offending</b>	<b>120</b>	<b>65.0</b>	<b>28.3</b>	<b>6.7</b>	<b>0.9</b>	<b>0.0</b>	<b>0</b>	<b>9</b>
Female	36	86.1	13.9	0.0	0.2	0.0	0	2
Male	84	56.0	34.5	9.5	1.2	0.0	0	9
Aboriginal or Torres Strait Islander	19	26.3	47.4	26.3	2.5	2.0	0	9
Non-Indigenous	78	65.4	30.8	3.8	0.7	0.0	0	5

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: Offenders with unknown characteristics were excluded from each subcategory.

Figure 16: Top eight prior offences of sentenced offences against animals, 2010-11 to 2011-12

Offence	Sentenced cases	Offender count
 Resist or hinder police officer or justice official	28	21 (17.5%)
 Offensive behaviour	30	16 (13.3%)
 Exceed the prescribed content of alcohol or other substance limit	15	14 (11.7%)
 Illicit drug offences, not elsewhere classified	15	12 (10.0%)
 Breach of domestic violence order	21	11 (9.2%)
 Drive while licence disqualified or suspended	13	11 (9.2%)
 Breach of bail	19	10 (8.3%)
 Driving under the influence of alcohol or other substance	10	9 (7.5%)

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: Offender count is a distinct count of offenders that received at least one prior sentence for the specified offence category.

The most common prior offence was resisting a police officer, with 21 offenders (17.5%) sentenced at 28 court events for this offence. The second most common prior offence was offensive behaviour (16 offenders, 13.3%), which includes offences such as public nuisance, urinating in a public place, and drunk or disorderly conduct – the majority of these cases (19 of the 30) involved public nuisance.

Offenders that were previously sentenced for breach of a domestic violence order (n=11, 9.2%) or breach of bail (n=10, 8.3%) had, on average, more than one prior sentence for these offences, as evidenced by the higher number of sentenced cases (n=21 and n=19 respectively).

See Figure 16 for a list of the top eight prior offences for offences against animals.

Offenders most commonly reoffended by breaching a bail order (16 offenders, 13.3%). These 16 offenders were collectively involved in 31 sentencing events involving a breach of bail offence – indicating that many of the same offenders breached their bail multiple times. The second most common type of reoffending involved resisting a police officer (15 offenders, 12.5%).

See Figure 17 for a list of the top eight subsequent offences.

Many of the prior offences and subsequent offences were categorised as offences against justice and government – these are indicated by the icon of a gavel in Figure 16 and Figure 17.

Figure 17: Top eight subsequent offences of sentenced offences against animals, 2010-11 to 2011-12

Offence	Sentenced cases	Offender count
 Breach of bail	31	16 (13.3%)
 Resist or hinder police officer or justice official	17	15 (12.5%)
 Breach of domestic violence order	13	8 (6.7%)
 Drive while licence disqualified or suspended	9	8 (6.7%)
 Drive without a licence	8	8 (6.7%)
 Offensive behaviour	12	8 (6.7%)
 Illicit drug offences, not elsewhere classified	10	8 (6.7%)
 Possess illicit drugs	11	7 (5.8%)

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: Offender count is a distinct count of offenders that received at least one subsequent sentence for the specified offence category.

## Note

Due to the small number of offenders sentenced as a young person under the *Youth Justice Act 1992* (n=24), the remainder of this *Sentencing Spotlight* will only consider offences (MSO) involving offenders sentenced as an adult (n=829).

All of the 24 young offenders received a non-custodial sentence: 7 were sentenced to unpaid community service, 6 were placed on a probation order, 5 were sentenced to a court ordered conference, 4 were placed on a good behaviour order, and 2 were reprimanded.

# Penalties and sentencing

Courts have discretion to impose any available Queensland sentencing order for offences against animals, with aggravating and mitigating factors required to be taken into consideration. No mandatory sentencing provisions apply.

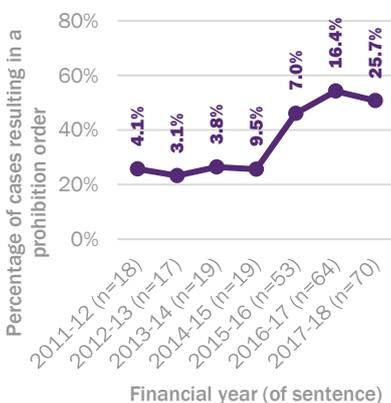
## Prohibition orders

The court may prohibit a person from possessing, purchasing or otherwise acquiring an animal, permanently or for a stated period, if that person is convicted of an ‘animal welfare offence’ (a term which covers all of the offences dealt with in this *Sentencing Spotlight*).<sup>23</sup> Such an order is at the court’s discretion and is separate to the penalty imposed for the offence.

Courts can also make such an order against an uncharged owner of an animal. This can occur if someone else is convicted of the animal welfare offence and the owner’s act or omission contributed to, or allowed, the commission of the offence and the owner is, and will continue to be, incapable of exercising their duty of care to the animal.<sup>24</sup>

Of the 660 cases that involved an offence against animals between 2011-12 and 2017-18, 260 resulted in a prohibition order.<sup>25</sup> Figure 18 shows that in 2017-18 a prohibition order was issued in 70 cases, amounting to 50.7 per cent of all cases involving offences against animals that were sentenced that year. The proportion of cases that resulted in a prohibition order has increased considerably in recent years, from 25.7 per cent of cases in 2011-12 to a high of 54.2 per cent in 2016-17.

**Figure 18: Percentage of cases resulting in a prohibition order by financial year, 2011-12 to 2017-18**



Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted November 2018. Prohibition order data extracted August 2019. Data for prohibition orders prior to 2011-12 is not reliable, see endnote 25 for details.

A prohibition order may be made permanently or for a stated period. A permanent prohibition order was made in 19 cases. In the remaining 241 cases the average length of a prohibition order was 3.2 years (median=3.0 years). There was no significant difference in the length of prohibition orders by gender or Aboriginal and Torres Strait Islander status – see Table 4.

**Table 4: Length of prohibition orders by demographics, 2011-12 to 2017-18**

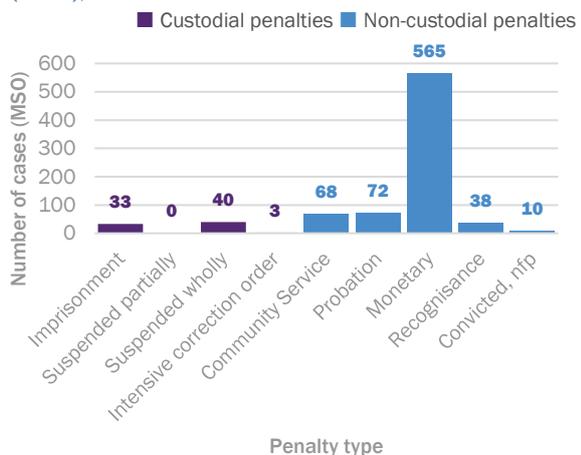
Offender type	N	Average	Median	Min	Max
<b>Prohibition orders (years)</b>					
Female	101	3.4	3.0	1.0	Life
Male	139	3.0	3.0	0.5	Life
Aboriginal or Torres Strait Islander	15	3.4	3.0	1.0	10.0
Non-Indigenous	144	3.3	3.0	0.5	Life
<b>All offenders</b>	<b>260</b>	<b>3.2</b>	<b>3.0</b>	<b>0.5</b>	<b>Life</b>

Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted November 2018. Prohibition order data extracted August 2019. Note: Offenders with unknown characteristics were excluded from each subcategory. Permanent prohibition orders did not contribute to the average or median calculations. Data for prohibition orders prior to 2011-12 is not reliable and has not been included, see endnote 25 for details.

## Penalty type

From 2005-06 to 2017-18, the majority of offenders sentenced for an offence against animals (MSO) received a non-custodial penalty (n=753, 90.8%). A custodial penalty was ordered in 76 cases (9.2%) - see Figure 19. A fine was the most common penalty imposed (n=565, 68.2%).

**Figure 19: Penalty types for offences against animals (MSO), 2005-06 to 2017-18**



Source: Queensland Government Statistician’s Office, Queensland Treasury - Courts Database, extracted November 2018.

For more details on types of sentencing orders, see the *Queensland Sentencing Guide*.<sup>26</sup>

Table 5 shows the different types of penalties that are imposed for different types of offences against animals (MSO). The offence of animal cruelty is more likely to result in a custodial penalty with 19.1% of cases resulting in a custodial penalty (n=60), compared to 2.6% of cases for the offence of breach of duty of care to an animal (n=12). A fine was the most common penalty imposed across each of the different offences.

**Table 5: Penalty types by offence type for offences against animals (MSO), 2005-06 to 2017-18**

Penalty type	Animal cruelty	Breach of duty of care to animal	Other
<b>Custodial penalties</b>			
Imprisonment	30	3	0
Partially suspended	0	0	0
Wholly suspended	27	9	4
Intensive correction order	3	0	0
<b>Non-custodial penalties</b>			
Community service	31	37	0
Probation	46	22	4
Monetary	156	362	47
Recognisance	17	18	3
Convicted, not further punished	4	5	1

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

## Penalty amount

For offenders who were sentenced to imprisonment for an offence against animals (MSO), the average sentence was five months (median=3.0 months). The longest sentence of imprisonment was 30 months (two and a half years), and the shortest was one month. On average, male offenders had longer sentences compared to female offenders (4.1 months for females, 5.1 months for males), and Aboriginal and Torres Strait Islander offenders had slightly shorter sentences compared to non-Indigenous offenders (4.8 months for Aboriginal and Torres Strait Islander offenders, 5.2 months for non-Indigenous offenders). However, these findings were not statistically significant.<sup>27</sup>

The most common penalty was a fine. The largest fine was \$55,000 and was issued to a company for breaching the duty of care owed to an animal. The average fine issued for an offence against animals (MSO) was \$1,460 (median=\$1000). For non-corporate offenders, the penalties ranged from \$50 to \$25,000. There was no statistically significant difference in the fine amount by gender or indigenous status.<sup>28</sup>

Probation was the second most common penalty, with an average length of 16.9 months (median=15.0 months). The shortest probation sentence was for a length of 6 months, and the longest probation sentence was 36 months (three years).<sup>29</sup>

The third most common penalty imposed for an offence against animals (MSO) was community service. On average, offenders were sentenced to undertake 133.5 hours of unpaid community service (median=120 hours). The shortest sentence was for 30 hours of community service, and the longest sentence was for 240 hours.<sup>30</sup>

**Table 6: Sentence lengths for offences against animals (MSO) by demographics, 2005-06 to 2017-18**

Offender type	N	Average	Median	Min	Max
<b>Imprisonment (months)</b>					
Female	4	4.1	3.0	1	9
Male	29	5.1	3.0	1	30
Aboriginal or Torres Strait Islander	6	4.8	6.0	1	8
Non-Indigenous	23	5.2	3.0	1	30
<b>All offenders</b>	<b>33</b>	<b>5.0</b>	<b>3.0</b>	<b>1</b>	<b>30</b>
<b>Wholly suspended (months)</b>					
Female	9	2.8	3.0	1	6
Male	30	4.9	3.0	1	36
Aboriginal or Torres Strait Islander	3	6.1	2.0	1	15
Non-Indigenous	33	4.2	3.0	1	36
<b>All offenders</b>	<b>40</b>	<b>4.3</b>	<b>3.0</b>	<b>1</b>	<b>36</b>
<b>Intensive correction order (months)</b>					
Female	0	-	-	-	-
Male	3	6.0	6.0	6	6
Aboriginal or Torres Strait Islander	1	6.0	6.0	6	6
Non-Indigenous	2	6.0	6.0	6	6
<b>All offenders</b>	<b>3</b>	<b>6.0</b>	<b>6.0</b>	<b>6</b>	<b>6</b>
<b>Community service (hours)</b>					
Female	29	135.2	120.0	40	240
Male	39	132.2	120.0	30	200
Aboriginal or Torres Strait Islander	12	107.1	100.0	75	150
Non-Indigenous	38	142.1	150.0	30	200
<b>All offenders</b>	<b>68</b>	<b>133.5</b>	<b>120.0</b>	<b>30</b>	<b>240</b>
<b>Probation (months)</b>					
Female	16	16.9	16.5	6	36
Male	56	16.9	15.0	6	36
Aboriginal or Torres Strait Islander	5	11.4	9.0	9	18
Non-Indigenous	55	16.6	15.0	6	36
<b>All offenders</b>	<b>72</b>	<b>16.9</b>	<b>15.0</b>	<b>6</b>	<b>36</b>
<b>Fine (dollars)</b>					
Female	208	\$1,271	\$1,000	\$50	\$9,000
Male	350	\$1,427	\$1,000	\$100	\$25,000
Aboriginal or Torres Strait Islander	58	\$1,000	\$750	\$125	\$7,000
Non-Indigenous	341	\$1,285	\$1,000	\$100	\$15,000
<b>All offenders</b>	<b>565</b>	<b>\$1,460</b>	<b>\$1,000</b>	<b>\$50</b>	<b>\$55,000</b>
<b>Recognisance (months)</b>					
Female	11	12.8	12.0	3	24
Male	27	8.3	9.0	1	24
Aboriginal or Torres Strait Islander	5	11.4	12.0	3	24
Non-Indigenous	28	8.4	9.0	1	18
<b>All offenders</b>	<b>38</b>	<b>9.6</b>	<b>9.0</b>	<b>1</b>	<b>24</b>

Source: Queensland Government Statistician's Office, Queensland Treasury - Courts Database, extracted November 2018.

Note: Offenders with unknown characteristics were excluded from each subcategory.

# Endnotes

<sup>1</sup> “[The offence of serious animal cruelty] will apply to a narrow cohort of offenders who intentionally torture an animal. There are existing offences for certain acts of animal cruelty and it is anticipated that the majority of animal cruelty cases will continue to be prosecuted under section 18 of the *Animal Care and Protection Act 2001*. Section 468 (Injuring animals) of the *Criminal Code* also provides that any person who wilfully and unlawfully kills, maims or wounds, any animal capable of being stolen is guilty of an indictable offence. The offence carries up to three years imprisonment in the case of domestic animals and seven years if the animal in question is stock. These existing offences do not adequately provide for the case where a person intentionally inflicts severe pain and suffering on an animal; in effect, the torture of an animal. The maximum penalty for the new offence of seven years imprisonment is justified on the basis of the moral importance of animals and the obligation society owes to protect them from suffering and will encourage the imposition of sentences that meet community expectations.”

– Explanatory Notes, *Criminal Law Amendment Bill 2014* (Qld) 6.

<sup>2</sup> The Australian and New Zealand Standard Offence Classification (ANZSOC) is released by the Australian Bureau of Statistics (ABS) and “provides a national statistical framework for classifying criminal behaviour in the production and analysis of crime and justice statistics”. The offence of injuring animals is classified under group 1219: property damage, not elsewhere classified, which explicitly includes ‘Kill/injure cattle or other animals’ – see *Australian Bureau of Statistics, Australian and New Zealand Standard Offence Classification* (Catalogue No 1234.0, 2011, Third Edition) at page 78.

<sup>3</sup> One offender was sentenced for cruelty in the export or import of animals under s 303GP of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth). As this offence is a Commonwealth offence, it falls outside the scope of this *Sentencing Spotlight* and will not be discussed further.

<sup>4</sup> For a definition of ‘most serious offence’ and other terms, refer to the technical paper available at: <https://www.sentencingcouncil.qld.gov.au/research/sentencing-spotlight>

<sup>5</sup> The age of 48 offenders was unknown - these offenders were excluded from analysis relating to age.

<sup>6</sup> The gender of 7 offenders was unknown - these offenders were excluded from analysis relating to gender.

<sup>7</sup> Pearson’s chi-square test:  $\chi^2(2) = 107.78, p = 0.000$

<sup>8</sup> Independent groups t-test:  $t(593) = 1.35, p = 0.18, r = 0.06$  (equal variances not assumed)

<sup>9</sup> As at 30 June 2015. See Queensland Government Statisticians Office (GovStats), Population estimates by Indigenous Status, LGAs, 2001 to 2015, available at <http://www.qgso.qld.gov.au/subjects/demography/atsi-people/tables/pop-est-indigenous-status/index.php> accessed 4 August 2017.

<sup>10</sup> The Aboriginal and Torres Strait Islander status of 212 offenders was unknown - these offenders were excluded from analysis relating to Aboriginal and Torres Strait Islander status.

<sup>11</sup> Pearson’s chi-square test:  $\chi^2(2) = 9.02, p = 0.01$

<sup>12</sup> While the age of Aboriginal and Torres Strait Islander offenders is, on average, younger than the age of non-Indigenous offenders, it is important to note that the Aboriginal and Torres Strait Islander population has a younger age structure than the non-Indigenous population, with larger proportions of young people and smaller proportions of older people. For more details see Australian Bureau of Statistics, *Estimates of Aboriginal and Torres Strait Islander Australians*, cat. no. 3238.0.55.001.

<sup>13</sup> Pearson’s chi-square test:  $\chi^2(1) = 0.19, p = 0.66$

<sup>14</sup> All offences under the *Animal Care and Protection Act 2011*(Qld) must be dealt with in the Magistrates Court (see s 178 of that Act), whereas the offence of serious animal cruelty under s 242 of the *Criminal Code* (Qld) must be tried and/or sentenced in the District Court (see Chapter 58A of the *Criminal Code* (Qld)).

<sup>15</sup> Pearson’s chi-square tests. Gender:  $\chi^2(1) = 0.10, p = 0.75$ ; Aboriginal or Torres Strait Islander status:  $\chi^2(1) = 1.38, p = 0.24$

<sup>16</sup> Independent groups t-test:  $t(397) = 1.27, p = 0.20, r = 0.06$  (equal variances not assumed)

<sup>17</sup> Independent groups t-test:  $t(607) = 1.14, p = 0.26, r = 0.05$  (equal variances not assumed)

<sup>18</sup> To calculate recidivism, offenders were linked across multiple court events to identify occurrences of prior offending and reoffending. This offender linkage was undertaken by the Queensland Government Statistician’s Office, and involved both deterministic and probabilistic matching techniques to account for anomalies in data systems in relation to common administrative data errors relating to issues, such as the use of nicknames and transposed details.

This linkage has been performed for court events that were finalised before 30 December 2017. As such, this *Sentencing Spotlight* does not include recidivism analysis for cases finalised beyond this date.

Recidivism in this *Sentencing Spotlight* includes all criminal offences and traffic offences sentenced in a court.

<sup>19</sup> Independent groups t-test:  $t(108) = -4.66, p = 0.000, r = 0.41$  (equal variances not assumed)

<sup>20</sup> Independent groups t-test:  $t(107) = -4.36, p = 0.000, r = 0.39$  (equal variances not assumed)

<sup>21</sup> Independent groups t-test:  $t(95) = -1.54, p = 0.12, r = 0.16$  (equal variances assumed)

<sup>22</sup> Independent groups t-test:  $t(20) = -2.91, p = 0.009, r = 0.54$  (equal variances not assumed)

<sup>23</sup> The power to make a prohibition order is in *Animal Care and Protection Act 2001* (Qld) s 183. ‘Animal welfare offence’ is defined in the schedule to the *Animal Care and Protection Act 2001* (Qld).

<sup>24</sup> *Animal Care and Protection Act 2001* (Qld) s 184.

<sup>25</sup> In the administrative system used to record data, prohibition orders came into use for data input on 15 October 2010 (2010-11). Prior to that year, the only way users could enter prohibition orders was to use a General Order with free text mentioning the prohibition order. Data for years prior to this date is not reliable for statistical purposes and has not been included in this publication.

<sup>26</sup> The Queensland Sentencing Advisory Council’s Queensland *Sentencing Guide* is available at: [https://www.sentencingcouncil.qld.gov.au/\\_\\_data/assets/pdf\\_file/0004/572161/queensland-sentencing-guide.pdf](https://www.sentencingcouncil.qld.gov.au/__data/assets/pdf_file/0004/572161/queensland-sentencing-guide.pdf)

<sup>27</sup> Independent groups t-tests. Gender:  $t(31) = -0.36, p = 0.72, r = 0.07$  (equal variances assumed); Aboriginal or Torres Strait Islander status:  $t(27) = -0.14, p = 0.89, r = 0.03$  (equal variances assumed).

<sup>28</sup> Independent groups t-tests. Gender:  $t(553) = -1.19, p = 0.24, r = 0.05$  (equal variances not assumed); Aboriginal or Torres Strait Islander status:  $t(91) = 1.81, p = 0.07, r = 0.19$  (equal variances not assumed).

<sup>29</sup> This reflects the statutory minimum (6 months) and maximum (3 years) periods available for probation orders: *Penalties and Sentences Act 1992* (Qld) s 92(2)(a).

<sup>30</sup> This reflects the minimum (40 hours) and maximum (240 hours) range of community service hours that can be imposed: *Penalties and Sentences Act 1992* (Qld) s 103(2)(a). The imposition of a 30-hour order as captured in the data appears to be an anomaly.



# Sentencing Spotlight on... animal welfare offences

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